

THE IMPACT OF THE CONSTITUTIONAL AMENDMENTS ON THE POLITICAL SYSTEM OF PAKISTAN: 2008-2013

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ABSTRACT

The political system of Pakistan is fundamentally based on four major elements: religion (Islam), democracy, federalism, with parliamentary supremacy. Unfortunately, Pakistan has a tumultuous political history. Most of the time, Pakistan has grappled with serious issues related to the tracheotomy of power. The civil-military nexus has, in one way or another, compromised Pakistan's democratic system, federalism, and parliamentary supremacy since its early years of independence up to the present day. The separation of powers has consistently been a point of contention among the executive, judiciary, and parliament. After the end of the Musharraf regime, the political leadership realized the need to find a viable political solution and create a rational consensus on major political and constitutional issues. As a result, a series of constitutional amendments i.e. 18th, 19th & 20th, were implemented from 2008 to 2013 to ensure democratic norms, federalism, and parliamentary supremacy in letter and spirit in Pakistan. To investigate and analyze the impact of these amendments on the political system of Pakistan, a descriptive-exploratory and analytical research with qualitative approach was used to accomplish this research task. This research involved the collection and utilization of both primary and secondary data. The findings of this research indicate that the amendments implemented during 2008-2013 largely align with the principles of the constitution, the will of parliament, and the expectations of civil society. Legally speaking, the amendments carried out during this decade represent a positive step towards strengthening democracy, federalism, and parliamentary supremacy. Nevertheless, practical implementation of these amendments continues to face challenges.

Key words: 1973 Constitution, Political impact, Religion (Islam), Democracy, Federalism, Parliament Supremacy, Judiciary, Executive, Consociation theory, Rational theory.

INTRODUCTION

The political system of Pakistan is constitutionally designated as a federal parliamentary and democratic republic. In theory, this implies that Pakistan adheres to democratic principles, where power is vested in the people, and elections are conducted to elect representatives to govern the nation. However, it is imperative to scrutinize the reality of Pakistan's political system to gauge the extent to which it functions as a democratic (Jan, 2023). The government has struggled to establish a proper balance in its actions and thoughts. Even in the critical area of checks and balances, Pakistan have not been able to develop a consistent mechanism. There is a trichotomy in place, and at this level, there should be a mutual balance with checks and balances within the system. For instance, parliamentary democracy and parliamentary supremacy are the essence of this system. Unfortunately, in Pakistan, we have not realized this ideal system. The supremacy of the parliament has not been properly established and developed. The parliament has repeatedly faced challenges from various centers of power, with the executive often dominating, and the judiciary playing a role in undermining the parliament's supremacy. Therefore, we have not achieved institutional balance in various dimensions, including the civil-military relationship and the trichotomy. It's impossible to have parliamentary supremacy without a truly supreme parliament. Pakistan's parliament has often been constrained and influenced, with military interference eroding its authority (Marwat, 2023).

Status of Islam in the Political System of Pakistan



Pakistan was established as an Islamic Republic, and it is evident that Islam holds a significant role in its political and legal framework. The constitution of Pakistan recognizes Islam as the state religion and mandates that all laws must conform to Islamic principles. However, the interpretation and application of Islam in Pakistan can be subjective and may vary among individuals and groups. Debates and controversies have arisen concerning the extent to which Islamic principles should be incorporated into the country's laws and governance (Raza, 2023). It is abundantly clear that legally, politically, and constitutionally, the political system of Pakistan is founded on the basis of Islam. The ultimate authority rests with Allah almighty alone. Islam, for better or worse, is inviolable from every perspective in Pakistan. As a result, no government can enact a law that contradicts the fundamental teachings of the Quran and Sunnah. Unfortunately, from the very beginning, religion has often been used not for the betterment of the country but for personal gain. However, it's an undeniable fact that there exists a significant gap between theory and practice in Pakistan. In theory, Pakistan is considered an Islamic state, but, to be candid, the practical situation is markedly different, akin to a disparity between myth and reality. Consequently, one can assert that, in theory, Pakistan is an Islamic state, but in practice, it is more accurately described as a state caught in a state of confusion, wavering between an Islamic and a secular identity (Khan P. A., 2023).

Federalism in Pakistan

Pakistan's constitutional framework indeed establishes a federal structure. The country is divided into four provinces, Islamabad Capital Territory, and any states or territories that are included in Pakistan, either through accession or other means, each of which has its own elected government. Legislative and executive powers are devolved to these provinces. Additionally, Pakistan's constitution provides for the establishment of a central government, a bicameral legislature, and a judiciary designed to act as a check on executive power (Raza, 2023). However, there are persistent challenges and issues that can erode the true spirit of federalism in Pakistan. One significant concern is the imbalance of power between the federal and units governments. Despite the presence of a federal structure, the central government has historically maintained a dominant position, often wielding substantial decision-making authority and control over resources. This centralization of power can diminish the autonomy and authority of the provinces, thus undermining the authentic federal nature of the system. Furthermore, there have been instances of political interference and the imposition of the central government's preferences on provincial governments. These actions detract from the principle of mutual cooperation and respect between government levels, which is central to federalism. It is essential for a federal system to ensure that provincial governments have the freedom to make decisions within their jurisdictions, free from external pressures or interventions (Ullah, 2023).

Parliamentary Supremacy in Pakistan

Parliamentary supremacy pertains to the principle that the legislative branch of government holds ultimate authority to create laws, and the judiciary and executive are bound by the decisions of the legislative branch. Pakistan follows a parliamentary structure, where the leader of the National Assembly is the head executive branch (government) and is answerable to the said house. However, in practice, Pakistan's situation is intricate. The military establishment exerts significant influence over the country's politics, and the judiciary has emerged as a substantial counterforce to the parliament in recent years. Pakistan's constitution empowers the judiciary with the right of judicial review, allowing it to invalidate laws that are inconsistent with the constitution. In this aspect, the judiciary possesses a mechanism to check the legislative branch's authority (Hassan, 2023). Pakistan does operate with a parliamentary system and assigns the National Assembly the task of legislating, there are other factors at play, such as the judiciary, the president, and the military's involvement in politics, which present substantial challenges to the ideal of parliamentary supremacy (Jan, 2023).

Status of Democracy in Pakistan

Democracy is a system of governance where the people's wishes take precedence, and they govern themselves by electing their representatives in free and fair elections (Kamran, 2008). But here in Pakistan, Democracy presents both a challenge and an opportunity for Pakistan. It is a challenge due to the existence of multi-ethnic, multi-sectarian, and multi-cultural groups, each with its unique



history, needs, problems, and aspirations. This diversity can lead to conflicts and make the democratic process complex. Furthermore, unelected and authoritative institutions, as well as the civil establishment, often attempt to accumulate more political authority under the guise of political elimination. Over the years, the common citizen has lost hope due to betrayal by various power centers, including the military, politicians, and bureaucracy. However, democracy is an opportunity for Pakistan because it reflects the realization that the people of the country matter and are the reason for its existence. Trusting the citizens and involving them in the political process can lead to the development of socio-economic and political conditions in the country. Pakistan's ethnic, cultural, and religious diversity can be a source of strength and should be acknowledged and respected in both approach and action. To seize this opportunity, the country must shift towards valuing the ballot over the bullet, promoting debate over coercion, embracing tolerance and consensus over intolerance, and rejecting self-serving attitudes (Kamran, 2008).

Literature Review

There is a few academic research on the impact of the constitutional amendments on the political system of Pakistan. A less number of research articles on the specific area with a limited scope to the peculiar area. That's why the research gap was identified in the area with special focus to the impacts of constitutional amendments on the political system of Pakistan from 2008 to 2013. To fill the research gap, an exploratory research study is needed to explore and analyze constitutional amendments impact on the political system of Pakistan: 2008-2013.

In his work, "Pakistan: The Enigma of Political Development," Lawrence Ziring claims that the imposition of the first martial law resulted from the institutional and structural weaknesses of the Muslim League (Lawrence Ziring, 2019). Additionally, Maleeha Lodhi has also analyzed the democratic system and the process of democratization along similar lines. She holds the view that political institutions in Pakistan have not received adequate attention from the political leadership, which has hindered the flourishing of democracy. There is a widespread perception that political parties have often served the interests of the establishment by destabilizing civilian governments, thereby weakening political institutions. Furthermore, the military establishment has played a role in undermining political parties. Due to the weak party structure and their limited reach at the grassroots level, mass resistance during military interventions has been limited in Pakistan. As a result, the Pakistani army has acquired an oversized role, which has impeded the functioning of other state institutions, including parliament, in the political landscape of the country (Maleeha Lodhi, 1983).

Dr. Fakhr-ul-Islam, the author of "Constitutional Development in Pakistan," stated in his book that every constitution should possess dual characteristics of rigidity and flexibility, each having its merits and demerits. If a constitution is overly rigid to the extent that ordinary legislative procedures cannot amend it, it becomes un-adjustable to the changing environment. On the other hand, flexible constitutions, while capable of adapting to contemporary challenges, are susceptible to excessive changes, which can, in many cases, lead to authoritarian rule (Fakhr-ul-Islam, 2018).

In this regard, while examining the military's role as an institution in the realm of power politics, Hassan Askari Rizvi has concluded that the Pakistan army unequivocally wielded absolute power in the state's affairs. This allowed it to establish and maintain a highly dominant position in the country's political structure (Hasan-Askari Rizvi, 1991). Delving into the amendments, Acts of Parliament, and the ordinary legislative process, Hamid Khan concluded in his book that, constitutional legislation and its implications for the political system of Pakistan. For instance, Article 58^{2b} played a pivotal role in the dismissal of PPP and PML (N) governments in succession, causing significant disruption to the political system of Pakistan. Furthermore, several constitutional legislations legitimized the abrogation and suspension of the constitution, ultimately leading to the imposition of martial law (Khan, 2005).

Mian Raza Rabbani a senior parliamentarian of PPP, in his work emphasizes the importance of respecting the 1973 Constitution. He expresses concern that military dictators altered the constitution through amendments that favored their interests, and he underscores the moral and legal imperative of preventing such alterations, as provided for in Article 6. Rabbani advocates for a



federal system of government in Pakistan, asserting that it is the most suitable form of governance. He regards provincial autonomy as fundamental to democracy, and he highlights the significance of the 18th amendments in this context (Rabbani, 2011). Ishtiaq Ahmed, an author of Pakistani descent, expounds the concept of a "Garrison State," which denotes a state that is dominated by the military-industrial complex. This study aims to address the following conundrum: In 1947, the Pakistan military was inadequately trained and equipped. Furthermore, it inherited territory that was highly vulnerable due to its smaller size compared to India, and it faced exacerbated challenges stemming from serious disputes with Afghanistan (Ahmed, 2013). In *"Pakistan at the Crossroads,"* leading international scholars evaluate Pakistan's politics and economics, as well as the domestic and diplomatic challenges confronted by its civil and military leaders (Jaffrelot, 2016).

A comprehensive literature review is crucial for a researcher, as it not only furnishes data but also unveils new dimensions of the research topic. In the case of the proposed topic, the researcher will need to utilize both primary and secondary sources, including books, newspapers, journals, published gazetteers, parliamentary debates, notifications, and official records. These diverse sources will be extensively examined to conduct a thorough evaluation and analysis of the topic. Various types of literature, such as books on democracy, parliamentary supremacy, political and constitutional studies, political history and constitution, speeches, and other pertinent materials, will be carefully reviewed to extract the necessary insights.

Application of Consociational & Rational Choice Theory on the Political System of Pakistan

Consociational Democracy is based on principles of consensus, compromise, and accommodation. In this system of democracy, powers are shared and distributed in various ways. It is essentially inclusive, flexible, and accommodating in spirit, evolving from a realistic approach. Pakistan is a multi-ethnic and multilingual country with a multi-party system. Therefore, it is imperative for a country like Pakistan to establish consensus for the development of the nation in all sectors without getting entangled in controversies. This is precisely why the researcher applied the 'Consociation Theory' when undertaking this task. The core purpose of the Consociation Theory of democracy is to legislate through consensus. In a country like Pakistan, where a two-thirds majority is required for amending the constitution, which is near impossible in a multi-party system, it becomes essential for the government to build consensus among parliamentarians for legislation.

The researcher included the 'Rational Choice Theory' because the amendments made during the mentioned era were a rational response to the demands of the people and the constitution for the restoration of democracy, the federation, and parliamentary supremacy. The Rational Choice Theory is defined as the process of assessing available options and then selecting the most preferred one based on a consistent criterion. In a country like Pakistan, where sovereignty is held solely by Allah Almighty, and the parliament is not empowered to legislate against the basic principles of Islam according to the Quran and Sunnah, rational decision-making is essential. Additionally, the parliament is bound to legislate within the parameters of the Objectives Resolution, and it cannot legislate beyond the ideology of Pakistan. Even when faced with hesitation to legislate on matters concerning the judiciary and the military establishment, a rational choice theory should guide the selection of available options without getting entangled in controversies.

Research Methodology

The research was descriptive-explanatory and analytical in nature, based on a qualitative approach. The qualitative approach is more suitable in cases where the procedure is less standardized and is applied in a flexible way. While conducting this research study, the researcher consulted both primary and secondary sources and documents. The primary data were collected from parliamentary debates, the gazetteer of Pakistan, interviews, constitutions, official reports, speeches, and statements, etc. Secondary data were collected from different books, research papers, articles, theses, and journals, etc.

Impact of Constitutional Amendments on the Political System of Pakistan: 2008-2013

The martial law administrators used constitutional amendments, such as the 8th and 17th, to weaken democracy, the parliament, political parties, and elected governments, by introducing 58^{2b} into the constitution of Pakistan. The military-judiciary nexus played a pivotal role in destabilizing



democracy, parliamentary supremacy, and good governance in Pakistan. This is evident from the fact that no National Assembly could complete its term until 2003, due to a series of martial laws. As a result, following the fall of the Musharraf regime, the political leadership of the major political parties, realized that they needed to find a workable political solution in order to forge an agreement on important political and constitutional matters. This approach resulted in the formation of the Charter of Democracy in 2006. When the Pakistan People's Party came into power in 2008, they took the initiative and established a constitutional reforms committee to thoroughly review the constitution and sensibly address all resolvable issues that posed a threat to democracy, federalism, and parliamentary supremacy in Pakistan. For this purpose, the government from 2008 to 2013 worked to develop a consensus and made efforts to sensibly identify all amendable aspects of the 1973 constitution. Their goal was to restore the 1973 constitution to its original form. To achieve this objective, they introduced the 18th, 19th and 20th amendments to the 1973 constitution of Pakistan.

The Historic 18th Amendment: Impacts on the Political System of Pakistan

The inculcation of 18th Amendment to Pakistan's 1973 Constitution on April 19, 2010, marked a pivotal moment in the nation's political and constitutional history. This significant milestone signified a substantial stride by the parliament in the direction of shaping Pakistan into a genuinely parliamentary system of government. The 18th Amendment introduced numerous modifications, ranging from substantial to minor, to Pakistan's constitution. It went beyond simply restoring the 1973 Constitution to its original form or giving the Prime Minister back the authority that previous dictators had usurped. Instead, it brought about normative, substantial, and procedural changes to our fundamental law. The purpose of these amendments was to strengthen and improve the constitution by building a strong framework that would strengthen the bonds between the people and the state and the three main institutional pillars of the state: the federal government, the provinces, and the state itself. This amendment attempted to rectify moral flaws that different military rulers had inserted into the constitution as a normative measure. The introduction of fundamental rights to education and information freedom, the institutional mechanism for judicial appointments, the transfer of discretionary powers from the president to the prime minister, and the notable advancement toward achieving effective provincial autonomy were among the significant changes. These four amendments were the most notable among the others (Aleem Abbasi, 2023).

In the political landscape of Pakistan, the prospects of democracy, federalism, and parliamentary sovereignty appeared remote. Nevertheless, the 18th Amendment has reinstated an equilibrium of power at the national level, endowing the Prime Minister and the parliament with more significant authority. This was achieved by strengthening the functions of the parliament and the prime minister while reducing the president's authority. The Prime Minister's position within Pakistan's parliamentary system of government has been significantly strengthened by the reassertion of his or her influence in areas such as the appointment of service chiefs and the dissolution of assemblies (Farhat Ullah Babar, 2023). The 18th Amendment has introduced new, albeit indirect, dimensions to the Prime Minister's role in the judicial appointment process. In their capacity as the Leader of the House, the Prime Minister is tasked with nominating members from the Treasury benches to the Committee and appointing the Law Minister as a committee member, reinforcing their position. Furthermore, the Prime Minister assumes a pivotal role in the formation of the caretaker government, further solidifying their authority. The de facto head of state also chairs the National Economic Council (NEC) and the Council of Common Interests (CCI).

Additionally, the 18th Amendment amplifies Parliament's role, notably through the establishment of the parliamentary committee for judicial appointments, significantly empowering the legislative branch. This committee has a significant influence on the appointment of the Chief Election Commissioner and other Election Commission members. The importance of the legislative body is further reinforced by the mandate that reports from the National Economic Council, National Finance Commission, and Council of Common Interest be submitted to Parliament. The 18th Amendment elevates the Senate's role, ensuring equal representation with the National Assembly in the parliamentary committees responsible for appointing judges and the Chief Election Commissioner. It mandates that presidential proclamations of emergency must gain approval from both houses of



Parliament. This comprehensive amendment tackles the issue of the balance of power at the center and charts Pakistan's course towards becoming a genuinely democratic federal parliamentary nation. This transition is vital for national unity and the sustainability of democratic principles (Aftab Ahmed Khan Sherpao, 2023). The 18th Amendment has effectively restored equilibrium in the central power structure, with a clear advantage for the Prime Minister as the authentic Chief Executive, while also broadening Parliament's authority. The framers of this amendment had a vision of a stable and well-proportioned parliamentary democracy for Pakistan, taking into account the country's diverse population and the divisions among linguistic and ethnic groups. This equilibrium of authority at the central level is of utmost importance in ensuring a robust democracy in Pakistan. It's worth highlighting that the effectiveness of a parliamentary system doesn't solely hinge on the constitutional language but also on the cultivation of democratic traditions and a parliamentary culture (Farhat Ullah Babar, 2023).

Now that the 18th Amendment has been incorporated into the 1973 Constitution, it is crucial to focus on its effective implementation to uphold the true spirit of the constitution. This implementation is crucial for the consolidation of democracy, federalism, and the parliamentary system in Pakistan. It ensures that both federal and provincial governments are elected and can operate smoothly and stably, thus contributing to Pakistan's development and the well-being of its citizens. The Implementation Commission for the 18th Amendment, which the government has already established, has made significant strides in transferring relevant ministries and responsibilities to provincial governments. The commission is expected to wrap up the remaining tasks shortly. The responsibility now rests with both federal and provincial governments to establish the necessary regulations and administrative structures to effectively utilize the decentralized powers for the socio-economic advancement and the welfare of the people of Pakistan. In this regard, federal and provincial authorities must acknowledge the challenges that may arise during the implementation of the 18th Amendment and work together to find effective solutions. This collaborative effort will ensure the speedy and fruitful implementation of the amendment, bringing tangible benefits to Pakistan's socio-economic development and the welfare of its citizens (Abdul Qayum Siddiqui, 2023).

Nevertheless, it's crucial to acknowledge that the effects of the 18th Amendment remain a topic of discussion. Some detractors contend that it might have centralized excessive authority within provincial governments, potentially resulting in a dearth of coordination and consistency in affairs of national significance. Nevertheless, the majority viewed the amendment as a constructive stride in advancing federalism, parliamentary sovereignty, and democracy in Pakistan (Javed Somro, 2023).

The 19th Constitutional Amendment and its impact on the Political System of Pakistan

The issue of whether the judiciary exerted influence or applied pressure on the federal government concerning the 19th amendment to Pakistan's Constitution is open to interpretation and varies depending on one's perspective (Shohaib Shaheen, 2023). The 18th Amendment aimed to enhance the judiciary's independence by establishing a consultative, transparent, and comprehensive process for judicial appointments. There are two stages to this process: the Judicial Commission suggests candidates, and they are confirmed by a special parliamentary committee that is equally composed of representatives from the opposition and the government. Even though the judicial commission consists of active judges, the process makes sure that no one person has undue influence over appointments to the judiciary in Pakistan. Comparing the new Article 175A to the old judicial appointment process, there has been a noticeable improvement. In order to curb the potential for abuse and political crises, the Parliamentary Committee on Constitutional Reforms has logically made a number of amendments to the Constitution that regulate the discretionary authority held by various constitutional positions (Sattar, 2011).

The Supreme Court heard a case challenging the constitutionality of the 18th Amendment, primarily on the grounds that it has the power to review constitutional amendments and declare them unconstitutional if they are determined to be at odds with the "basic structure." The challenge asserted that the new mechanism for appointing judges undermined the judiciary's independence and, therefore, should be declared null and void. While reasonable people may have differing opinions on the legal merits of these arguments, the claims presented in the petitions challenging



the 18th Amendment lacked logical substantiation and contradicted established legal principles in Pakistan. To put it simply, the argument went something like this: parliament can amend the constitution with a supermajority in accordance with its provisions, but its amendment powers do not extend to changing the constitution's fundamental structure, as decided by the judiciary (Aleem Abbasi, 2023).

Two important questions are brought up by this theory: first, how can a written constitution be changed, and second, what are the boundaries of the authority of judicial review? The power of Parliament to amend the Constitution is unlimited, as Article 239(6) of the Pakistani Constitution explicitly states. This raises the question of whether judges actually make law or just interpret it, as Article 239 specifically states that no amendment of the Constitution can be challenged in court on any grounds. The court shouldn't consider legal challenges against constitutional amendments since it seems that parliament has unrestricted power to amend the constitution (Jan, 2023). This act will violate the constitution's wording if the judiciary takes that action. A reasonable question is thus raised: if the basic structure theory is right, does this imply that we will never be able to transition to a presidential system, no matter how bad our experience with parliamentary democracy ends up being? Or that the only viable solution would be to start a revolution and overturn the constitution if, over time, the vast majority of Pakistanis come to believe that religion and politics are unrelated and should be kept apart. The legal authority of judicial review in our system of separation of powers is not to be confused with the nonexistent right to conduct a constitutional review. In the exercise of its judicial review powers, the court may invalidate laws only if they are unconstitutional—that is, not because they are good or bad. When Parliament amends the Constitution, the court's role is limited to interpreting the text of the Constitution, not debating the merits of the original text (Sattar, 2011).

While it undoubtedly marks an improvement over the previous system in which the chief justice held a monopoly over the judicial appointment process, the Supreme Court's order also gave rise to some valid concerns (Imran Wasim, 2023). The 19th constitutional amendment has undoubtedly had a significant impact on Pakistan's political system. In general, the judiciary's role is to interpret and protect the law, including constitutional amendments, to ensure their compliance with the Constitution. Some political scholars argue that the judicial mechanism strengthens the role of parliament. They assert that replacing the president with a parliamentary committee consisting of both treasury and opposition benches with equal representation and the chief justice with a judicial commission is a positive development for parliamentary supremacy. However, some political and legal experts hold the view that the 19th constitutional amendment challenges parliamentary sovereignty while questioning the 18th amendment in the apex court. The Constitution of Pakistan grants supreme power to parliament to amend the constitution and make laws, and the Supreme Court should not have the authority to question it for any constitutional review. However, in this case, the Supreme Court of Pakistan replaced the separation of powers theory with the basic structure theory, which has faced criticism, even in India. Many legal experts and politicians have expressed that, in this case, the Supreme Court of Pakistan exceeded its constitutional authority, and it lacks legal and logical justification (Jan, 2023). Qamar Zaman Qaira, a senior PPP parliamentarian and leader, once expressed on a TV talk show that the Supreme Court had exerted pressure on the government, suggesting that if they didn't make certain changes, the entire 18th amendment might be dismissed.

The 18th Amendment to the Constitution has celebrated the essence of the parliamentary system, where all state institutions have been accorded the appropriate significance in line with constitutional principles and institutional norms. Nevertheless, members of the legal community and the judiciary raised concerns and challenged the procedure for appointing judges to the Supreme Court, contending that the parliament should not have the authority to interfere in the fundamental structure of the judiciary, thus diminishing its authority. It's important to note that our political system is based on the parliamentary system, which draws its inspiration from the Westminster/British parliamentary system. In the British parliamentary system, there is no strict



separation or trichotomy of powers; instead, all powers are centralized within the parliament (Marwat, 2023).

For Pakistan's parliamentary system, the British parliament and its parliamentary structure serve as a model. In this model, the judiciary does not have any involvement in the legislative affairs of the parliament. The assertion by Pakistan's judiciary goes against the parliamentary principles. In a parliamentary system, the rule of law is a fundamental necessity for a modern nation-state. However, while the rules or laws themselves represent soft power, the effectiveness of their enforcement depends greatly on the competence of the executing authority (Marwat, 2023). The story doesn't end here. The judiciary in Pakistan continues to violate the philosophy of the separation of powers and interferes in the legislative authority of the parliament. Unfortunately, the nexus between the military and the judiciary has significantly undermined democratic values and parliamentary supremacy in Pakistan. Recent examples of this interference include the interpretation of Article 63^A, the removal of NAB, and the reversal of the Supreme Court Practice & Procedure Bill of 2023. These actions have essentially judicialized the political system of Pakistan (Jan, 2023). Fortunately, the recent verdict regarding the Supreme Court Practice and Procedure Act has upheld the role of the legislature in legislative matters and reaffirmed the constitutional role of parliament in shaping legislation and constitutional affairs (Azam Nazir Tarar, 2023).

The impact of the 20th Constitutional Amendment on the Political System of Pakistan

When it comes to the 20th constitutional amendment, it is just as significant as the aforementioned amendments introduced during the PPP government. The bill included a clause 'A' to Article 224, which deals with the appointment of a caretaker administration in accordance with the provisions of Article 48, which deals with the holding of general elections for the National Assembly. Furthermore, other amendments were related to the provisions governing the conduct of free and fair elections by the Election Commission and the delineation of the responsibilities of the Chief Election Commissioner. The purpose of these amendments was to establish impartial caretaker cabinets at the provincial and federal levels. As a constitutional judicial body, the court must adhere to the Constitution and perform its duties in accordance with the Constitution and the laws enacted under it. Deviating from this prescribed path and assuming the role of arbiter of the people's best interests risks entangling the court in complex legal doctrines like the law of necessity, with potentially negative consequences (Khan P. A., 2023).

A credible feature of the amendment was that the caretaker Prime Minister, Chief Ministers, and members of the respective governments, both at the central and provincial levels, were forbidden from taking part in the elections that were to take place right after. The amendment also detailed the process for nominating or appointing the caretaker prime minister and chief ministers of the relevant provinces if there is a dispute over their names (Adil Sarfaraz, 2023). Article 224 of the Constitution was amended to add clause A, which states that if the prime minister and opposition leader in the outgoing National Assembly, or the chief minister and opposition leader in the outgoing provincial assemblies, cannot agree on a caretaker prime minister or chief minister within three days, the respective assemblies will be dissolved and forward two separate nominees to a committee immediately formed by the speakers. Six people would make up the committee, equally represented from the opposition benches and the outgoing treasury of the provincial and national houses, respectively. The committee would be authorized to finalize a name for the caretaker Chief Minister or Prime Minister of the respective assemblies within three days. Should there be dissent among the committee members, the Election Commission would be consulted. The final decision would be binding and made by the Pakistani Election Commission within three days (Aleem Abbasi, 2023).

It is worth mentioning that the Election Commission was granted a significant role in the upcoming general elections, a role it had never had prior to that amendment. This amendment provided the Election Commission with the opportunity not only to conduct free and fair elections but also to ensure parliamentary supremacy and strengthen democratic norms within the parliament in the years to come. This parliamentary act aimed to reduce the influence of non-parliamentary actors, such as the judiciary, bureaucracy, and military establishment, in parliamentary affairs (Abdul Qayum Siddiqui, 2023).



This amendment received a mixed response from the intelligentsia. Some argued that the Election Commission is responsible for conducting general elections in Pakistan, and strengthening the institution of the Election Commission and its members is a positive step towards ensuring free and fair elections, which are necessary for a robust democracy and parliamentary supremacy (Imran Wasim, 2023). Critics raised objections to the establishment of a caretaker government and to the empowerment of the Election Commission to that extent, considering it against the essence of democracy and parliamentary supremacy. Prominent journalist and researcher Matiullah Jan argued that there is no concept of a caretaker government in true democratic states. He believed that in a democratic country, it is the parliament's responsibility to conduct free and fair elections to uphold its dignity as an institution. Giving the responsibility of general elections to a caretaker government reflects a lack of confidence in the parliament itself. He asserted that this amendment was passed with the blessings of the military establishment, as it allows them to easily control technocrats and bureaucrats rather than genuine politicians who have stronger roots in the public. According to Jan, this amendment represents a failure of leadership, parliamentarians, and the institution of parliament itself. He emphasized that it's the responsibility of parliamentarians to ensure the dignity and credibility of the parliament and that the elected government should be solely responsible for conducting free and fair general elections in Pakistan to strengthen democracy and parliamentary supremacy. Jan argued that a selected caretaker government with a three-month mandate has no right to oversee general elections for a country with a population of approximately 250 million (Jan, 2023).

CONCLUSION

The political system of Pakistan is constitutionally designated as a federal parliamentary and democratic republic. In theory, this implies that Pakistan adheres to democratic principles, where power is vested in the people, and elections are conducted to elect representatives to govern the nation. However, it is imperative to scrutinize the reality of Pakistan's political system to gauge the extent to which it functions as a democratic. Besides, Pakistan was established as an Islamic Republic, and it is evident that Islam holds a significant role in its political and legal framework. The constitution of Pakistan recognizes Islam as the state religion and mandates that all laws must conform to Islamic principles. However, the interpretation and application of Islam in Pakistan can be subjective and may vary among individuals and groups. Furthermore, Pakistan's constitutional framework indeed establishes a federal structure. The country is divided into four provinces, Islamabad Capital Territory, and any states or territories that are included in Pakistan, either through accession or other means, each of which has its own elected government. However, there are persistent challenges and issues that can erode the true spirit of federalism in Pakistan. It is essential for a federal system to ensure that provincial governments have the freedom to make decisions within their jurisdictions, free from external pressures or interventions.

Parliamentary supremacy pertains to the principle that the legislative branch of government holds ultimate authority to create laws, and the judiciary and executive are bound by the decisions of the legislative branch. However, in practice, Pakistan's situation is intricate. The military establishment exerts significant influence over the country's politics, and the judiciary has emerged as a substantial counterforce to the parliament in recent years. A part from this, Pakistan is a democratic country where the people's wishes take precedence, and they govern themselves by electing their representatives in free and fair elections. But here in Pakistan, Democracy presents both a challenge and an opportunity for Pakistan. It is a challenge due to the existence of multi-ethnic, multi-sectarian, and multi-cultural groups, each with its unique history, needs, problems, and aspirations. However, democracy is an opportunity for Pakistan because it reflects the realization that the people of the country matter and are the reason for its existence. Trusting the citizens and involving them in the political process can lead to the development of socio-economic and political conditions in the country.

But Pakistan indeed has a complex political history, which experienced four Martial laws in his seventy five years life. After the last Martial Law came to an end, the major political parties in Pakistan

recognized the need to seek a workable political resolution to reach consensus on significant political and constitutional matters. This effort led to the creation of the Charter of Democracy in 2006. The 18th, 19th and 20th amendments was the result of this consensus-building effort, which almost restore the 1973 constitution in its original form. The amendments, which were made during this peculiar era, were almost all demanded by democracy, parliamentary supremacy, federalism, and society. Nevertheless, this task is considered quite daunting in a political environment accustomed to power centralization at the federal level. All interested parties and civil society express hope and speculation that the ratification of these amendments and the restoration of the 1973 Constitution to its original form will serve as a guide for our political leaders, state institutions, and civil society to operate within the Constitution's framework and strive vigorously to address the security and economic challenges confronting Pakistan. While the mentioned amendment brings satisfaction to the Pakistani people, it also triggers questions regarding its capacity to address Pakistan's internal issues, the hurdles in its implementation, and strategies to surmount these challenges. Because until now, the implementation of the respective amendments has faced problems in letter and spirit.

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